



3764
JFW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Paul Patterson §
Serial No.: 09/925,934 §
Filed: January 29, 2001 §
For: Rowing Machine Having A Flex §
Handle Assembly For Preferentially §
Enabling An Extended Range Of §
Motion For Selected Joint Complexes §

Commissioner For Patents
PO Box 1450
Alexandria VA 22313-1450

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service, with sufficient postage as first class mail, in an envelope addressed to: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450

John Brown
Signature

8/19/2004
Date of Deposit

RESPONSE TO RESTRICTION REQUIREMENT

Sir:

In response to the Restriction Requirement dated May 19, 2004, having a shortened statutory period for response which expires on August 19, 2004, the Applicant hereby elects to prosecute the invention of Group I (Claims 1-16). The Applicant further elects to prosecute the invention of Species II (Fig. 2b). This election is made **WITH TRAVERSE**.

The Examiner has characterized Group I, Claims 1-13, as being drawn to a handle assembly classified in class 482, subclass 126; Group II, Claims 17-20, as being drawn to a rowing machine classified in class 482, subclass 72; and Group III, Claims 21-25, as being drawn to a method of exercise classified in class 128, subclass 898, the Examiner stating that Groups II and I are related as combination and subcombination and that Groups III and II are related as process and

apparatus for its practice.

As to the proposed restriction between Groups II and I as combination and subcombination, the Examiner properly stated that inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination for patentability; and (2) that the subcombination has utility by itself or in other combinations. While the Examiner appears to have support for criteria (2), the Examiner's reasoning in support of criteria (1) is deficient. More specifically, the Examiner argues that the "combination as claimed does not require the particulars of the subcombination as claimed because invention 1 does not need the particulars of the rowing machine in Invention II." Examiner's Action dated May 19, 2004, page 2, lines 14-16. However, at issue is not whether the handle assembly of Claims 1-16 requires the particulars of the rowing machine of Claims 17-20 but whether the rowing machine of Claims 17-20 requires the particulars of the handle of Claims 1-16. In this regard, the Applicant has carefully compared Claims 1-16 to Claims 17-20 and has determined that, for the rowing machine of Claims 17-20, the limitations related to the handle structure portion thereof closely correlate to the limitations of the handle structure of Claims 1-16. For this reason, the Applicant respectfully submits that the restriction between Groups I and II is improper and should be withdrawn.

As to the proposed restriction between Groups III and II, the Applicant sees no reason to dispute the Examiner's determination. It is submitted, however, the Examiner has not yet made a sufficient showing in support of the restriction of Group III. More specifically, while the Examiner has shown why Groups II and III should be restricted with respect to one another, the Examiner has failed to show why Groups I and III should be restricted with respect to one another. Only by showing how Group III is a separate invention from Group I **AND** Group II may the Examiner properly restrict Group III from Group I. For this reason, the Applicant respectfully requests the withdrawal of the restriction between Groups I and III.

The Examiner further states that the application contains claims directed to a number of patentably distinct species, specifically Species I (Fig. 2a), Species II (Fig. 2b), Species III (Fig. 2d) and Species IV (Fig. 3a). The Examiner has further indicated that Claim 1 is generic to all of the species. The Applicant agrees that Claim 1 is generic to all four species. Upon reviewing the

remaining ones of the claims, however, the Applicant has determined that a number of other claims are also generic to all four species. The Applicant has further determined that others of the claims are generic to some, but not all, of the species. As instructed, the Applicant has prepared a list of the claims of this application and an indication as to which species each claim reads upon. As the Applicant has traversed both the restriction between Groups I and II as well as the restriction between Groups I and III, the foregoing listing of claims includes both the elected and non-elected groups.

Claim No.	Species On Which The Claim Reads
1	Species I, II, III and IV
2	Species I
3	Species I, II, III and IV
4	Species I, II, III and IV
5	Species I, II, III and IV
6	Species I
7	Species I, II, III and IV
8	Species II, III and IV
9	Species II, III and IV
10	Species II, III and IV
11	Species II, III and IV
12	Species II, III and IV
13	Species II, III and IV
14	Species II, III and IV
15	Species II, III and IV
16	Species II, III and IV
17	Species II, III and IV
18	Species II, III and IV
19	Species II, III and IV
20	Species II, III and IV
21	Species I, II, III and IV
22	Species I, II, III and IV
23	Species I, II, III and IV
24	Species I, II, III and IV
25	Species I, II, III and IV

In summary, the Applicant has elected Group I and Species II **WITH TRAVERSE**. Accordingly, for all of the reasons set forth above, the Applicant respectfully requests the reconsideration and withdrawal of the restriction between Groups I and II, the reconsideration and withdrawal of the restriction between Groups I and III and the prompt examination of Claims 1, 3-5 and 7-25 on the merits.

The Commissioner is hereby authorized to charge any fees connected with this communication or credit any overpayment to Deposit Account No. 50-1515, Conley Rose, P.C.

Respectfully submitted,

CONLEY ROSE, P.C.

Date: August 19, 2004

5700 Granite Parkway, Suite 330
Plano, Texas 75024
Telephone: (972) 731-2288
Facsimile: (972) 731-2289



Michael S. Bush
Reg. No. 31,745

ATTORNEY FOR APPLICANT